

## Interview Summary

**Application No.**

10/811,612

**Applicant(s)**

MILLER, BRAD A.

**Examiner**

Joseph D. Anthony

**Art Unit**

1714

All participants (applicant, applicant's representative, PTO personnel):

(1) Joseph D. Anthony.

(3) \_\_\_\_\_.

(2) Brad A. Miller.

(4) \_\_\_\_\_.

Date of Interview: 30 July 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

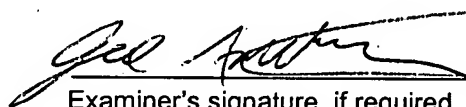
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See the attached 3 page e-mail correspondence between the examiner and applicant.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

  
8/1/07

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### **37 CFR §1.2 Business to be transacted in writing.**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

3 Page ATTACHMENT TO INTERVIEW SUMMARY

Anthony, Joseph

conducted ON 7/30/07

From: Anthony, Joseph  
Sent: Monday, July 30, 2007 10:27 PM  
To: 'Brad Miller'  
Subject: RE: OFFICIAL NOTICE FROM THE UNITED STATES PATENT AND TRADEMARK OFFICE ABOUT YOUR APPLICATION S.N. 10/811,612 (Need Response ASAP)

To: Brad Miller

U.S. Patent Number 6,712,994, which you refer to in the below web-link, remains in force. The issue I contacted you about was for application S.N. 10/811,612 which is a continuation of S.N. 09/721,810 now U.S. Patent Number 6,712,994. Since you have not responded to the outstanding office action in S.N. 10/811,612 within six months of its mailing date, it has gone abandoned and I will now send out the Notice of Abandonment. This Notice of Abandonment will NOT affect your already granted patent 6,712,994.

Sincerely, Examiner Joseph Anthony

-----Original Message-----

From: Brad Miller [mailto:bmiller@film-tech.com]  
Sent: Monday, July 30, 2007 2:04 AM  
To: Anthony, Joseph  
Subject: RE: OFFICIAL NOTICE FROM THE UNITED STATES PATENT AND TRADEMARK OFFICE ABOUT YOUR APPLICATION S.N. 10/811,612 (Need Response ASAP)

I think there is a misunderstanding of what Akin, Gump filed.

This is the only patent I care about...  
<http://www.freepatentsonline.com/6712994.html>

This is something else, correct?  
Brad

> -----Original Message-----

> From: Anthony, Joseph [mailto:Joseph.Anthony@USPTO.GOV]  
> Sent: Wednesday, July 25, 2007 1:20 PM  
> To: Brad Miller  
> Subject: RE: OFFICIAL NOTICE FROM THE UNITED STATES PATENT  
> AND TRADEMARK OFFICE ABOUT YOUR APPLICATION S.N. 10/811,612  
> (Need Response ASAP)

> To: Brad Miller

> You definitely misunderstanding something. Your filed  
> application was given the Serial Number 10/911,612 and was  
> filed as a patent application not as a patent. The  
> application has NOT been patented. As such, you have no legal  
> protection whatsoever for your invention and your application  
> has now gone abandoned since you did not respond to the  
> Patent Office action mailed 1/16/2007 by the due date of  
> 7/16/2007. The fact that S.N. 10/811,612 has been published  
> as Patent Application under the Publication Number  
> 20040183052 only means that your competitors will be unable  
> to file claims in the Patent Office that read on or are  
> obvious over your patent application's disclosure. The  
> publication of your application is thus NOT a patent. Almost  
> all patent application are published unless the inventor  
> specifically requested they not be so, and promised not to  
> file the application in a foreign country. These publications  
> are NOT patents. I will issue a Notice of Abandonment for your  
> application. Since there is nothing of record in our files  
> that indicates that you have officially withdrawn AKIN GUMP  
> STRAUSS HAUER & FELD, LLP. in Houston, Texas, as your

> representative, the Notice of Abandonment will be sent to  
> their address and you can request that they forward it to you.  
> Sincerely, Examiner, Joseph Anthony

> -----Original Message-----

> From: Brad Miller [mailto:bmiller@film-tech.com]  
> Sent: Wednesday, July 25, 2007 1:57 PM  
> To: Anthony, Joseph  
> Subject: RE: OFFICIAL NOTICE FROM THE UNITED STATES PATENT  
> AND TRADEMARK OFFICE ABOUT YOUR APPLICATION S.N. 10/811,612  
> (Need Response ASAP)

> Hi Anthony,

> It was my understanding with Akin Gump was no longer going to  
> be pursuing future updates to the patent, but that the patent  
> would still remain as is and my product would still be  
> protected under US patent. Am I misunderstanding something?

> The reasoning is because Akin Gump gave me false estimations  
> of the costs and I was led to believe that once the patent  
> was granted that the bills from Akin Gump would stop, but  
> they didn't and it was getting ridiculous.

> Brad Miller

> > -----Original Message-----

> > From: Anthony, Joseph [mailto:Joseph.Anthony@USPTO.GOV]  
> > Sent: Wednesday, July 25, 2007 11:49 AM  
> > To: bmiller@film-tech.com  
> > Subject: OFFICIAL NOTICE FROM THE UNITED STATES PATENT AND  
> TRADEMARK  
> > OFFICE ABOUT YOUR APPLICATION S.N. 10/811,612 (Need Response ASAP)

> > To: Brad A. Miller at Film-Tech.

> > From: Examiner Joseph Anthony at the U.S. Patent Office

> > Concerning: U.S. Patent Serial Number 10/811,612 now U.S.  
> > Patent Application Publication Number 20040183052.

> > It has come to my attention, after contacting Mr. Dwayne L.  
> > Mason (Reg. No. 38,959) at AKIN GUMP STRAUSS HAUER & FELD, LLP. in  
> > Houston, Texas, that the said application is no longer being  
> > prosecuted by AKIN GUMP STRAUSS HAUER & FELD, LLP.. An

> Official office

> > action from the Patent Office was mailed to AKIN GUMP

> STRAUSS HAUER &

> > FELD, LLP.. on 1/16/2007.

> > The maximum statutory response date to said Office Action fell on  
> > 07/16/2007. If you have not sent in a office response to  
> said Office

> > Action the application is Abandoned. I will be sending out  
> the NOTICE

> > OF ABANDONMENT very soon unless you can prove that you or your

> > official representative sent an official response to the  
> Patent Office

> > on or before 7/16/2007. Please response ASAP. The phone  
> number I was

> > given to contact you was 972-772-1908, but such was

> basically useless

> > since the voice mail said to e-mail "Film-Tech" instead.

> Examiner Joseph Anthony

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> > Art Unit 1714
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> > Phone: 571-272-1117
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**JOSEPH D. ANTHONY**  
**PRIMARY EXAMINER**

AKT UNIT 17/4

8/1/07